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EXAMINER
NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
2154	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/692,377	PYHALAMMI ET AL.
	Examiner	Art Unit	
	Dustin Nguyen	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *05/13/2004*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   Claims 1-34 are presented for examination.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 24-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter. It appears claims 24 and 25 would reasonably be interpreted by

one of ordinary skill as a system of software per se, failing to fall within a statutory category of

invention. Applicants' disclosure contains no explicit and deliberate definition for the term

"module", and in the context of the disclosure and claims in question, one of ordinary skill would

reasonably interpret the modules as software applications. As such, the system of modules alone

is not a machine, and it is clearly not a process, manufacture nor composition of matter.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claims 1-23, 30-34 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

        A.   The following terms lack antecedent basis:

            I.   the message tracking system   -   claim 12

            II.   originators   -   claims 30 and 31

        B.   The claim language in the following claims is being considered as indefinite:

            I.   As per claims 1, 23, 33 and 34, the limitation of "maintaining a content

transmission count for each of the originators" is not clearly explained

since there is only one originator.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1-6, 16, 24 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by

Lamkin et al. [US Patent No 6,957,220].

7.   As per claim 1, Lamkin discloses the invention as claimed including a method for

tracking content communicated over a network [i.e. tracking and supporting the distribution of

content] [Figure 1; Abstract; and col 2, lines 38-53], comprising:

receiving at least one message and associated content from an originator of the content

over the network [i.e. receive information from the primary distributor] [Abstract; col 2, lines

43-45; and col 11, lines 36-45];

associating watermark data with the content to provide watermarked content [i.e. digital

watermarking] [col 6, lines 35-47];

registering the watermarked content to record an association of the watermarked content

with the originator of the watermarked content [i.e. registration information] [308, 310, Figure

3; Abstract; col 3, lines 5-13; and col 11, lines 44-46];

monitoring for subsequent transmission of the watermarked content over the network to

identify the originator of the watermarked content [i.e. the database maintains a record for each

tracking identifier] [312, Figure 3; col 9, lines 13-25; and col 12, lines 9-19]; and

maintaining a content transmission count for each of the originators of the watermarked

content that is transmitted over the network [i.e. record is updated and provide credit] [314,

Figure 3; col 5, lines 2-22; and col 8, lines 2-6].

8.   As per claim 2, Lamkin discloses forwarding statistics including at least an identity of the

originator of the watermarked content and the corresponding content transmission count to a

server, and presenting the forwarded statistics via a site hosted by the server [i.e. create reports

] [col 12, lines 20-29].

9.　　As per claim 3, Lamkin discloses wherein maintaining a content transmission count for each of the originators of the watermarked content comprises maintaining the content transmission count for a plurality of originators of watermarked content [i.e. update credit for primary, second and third distributors] [col 12, lines 9-19], and wherein presenting the forwarded statistics comprises presenting the forwarded statistics in an order based on a relative quantity of transmissions of the plurality of originators of the watermarked content [col 12, lines 20-29].

10.　　As per claim 4, Lamkin discloses generating a bonus for the originator of the watermarked content based at least in part on the content transmission count [i.e. provide credit or incentive to distributors] [Abstract; col 2, lines 12-21 and lines 51-53].

11.　　As per claim 5, Lamkin discloses wherein generating a bonus comprises any one or more of providing the originator of the registered content with a reduced network access charge, free network access, a prize, a monetary reward, or publicity [i.e. commission based incentive] [col 2, lines 12-21; and col 9, lines 36-42].

12.　　As per claim 6, Lamkin discloses wherein associating watermark data with the content comprises embedding electronically perceivable data into the content [col 6, lines 39-45].

13.　　As per claim 16, Lamkin discloses wherein registering the content comprises storing

at least the association of the watermarked content with the originator of the watermarked

content in a registration database [308, 310, Figure 3; and col 11, lines 46-col 12, lines 8].

14.   As per claim 24, it is rejected for similar reasons as stated above in claim 1.

15.   As per claim 33, it is rejected for similar reasons as stated above in claim 1.

Claim Rejections - 35 USC § 103

16.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

17.   Claims 7-10 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Lamkin et al. [US Patent No 6,975,220], in view of Levy et al. [US Patent No 7,224,819].

18.   As per claim 7, Lamkin discloses wherein associating watermark data with the content

comprises: encrypting at least some attributes of the content to provide encrypted data [col 6,

lines 46-58]. Lamkin does not specifically disclose hashing at least some of the attributes of

the content to provide a machine authentication code (MAC); and executing a watermark

algorithm using the content, the encrypted data, and the MAC as inputs to the watermark

algorithm. Levy discloses hashing at least some of the attributes of the content to provide a

machine authentication code (MAC); and executing a watermark algorithm using the content,

the encrypted data, and the MAC as inputs to the watermark algorithm [i.e. extract features and

hash] [col 7, lines 1-39]. It would have been obvious to a person skill in the art at the time the

invention was made to combine the teaching of Lamkin and Levy because the teaching of

hashing in Levy would allow to create a content dependent parameter that may be inserted into

a watermarking message or in metadata associated with a media signal [Levy, col 7, lines 18-

21].

19.   As per claim 8, Levy discloses wherein executing the watermark algorithm comprises

deriving a bit pattern from the content, encrypted data, and MAC, and inserting the bit pattern

into the content [col 7, lines 24-30].

20.   As per claim 9, Levy discloses detection data with the watermarked content, and wherein

monitoring for subsequent transmission of the watermarked content comprises detecting the

detection data, and verifying the watermark data for the watermarked content that includes the

detection data [i.e. watermark detector] [70, 72, Figure 3; and col 9, lines 58-col 10, lines 28].

21.   As per claim 10, Levy discloses wherein detecting the detection data comprises

detecting the detection data at a message routing entity, and further comprising forwarding

watermarked content that includes the detection data to a message tracking system [Figure 3;

and col 10, lines 11-38].

22. As per claim 12, Levy discloses wherein verifying the watermark data comprises verifying the watermark data at the message tracking system [i.e. verify] [col 7, lines 14-24 and lines 51-54].

23. As per claim 13, Levy discloses wherein monitoring for subsequent transmission of the watermarked content comprises detecting the watermarked content transmitted over the network, and verifying the watermark data [i.e. watermark detector] [70, 72, Figure 3; and col 9, lines 58-col 10, lines 28].

24. As per claim 14, Levy discloses wherein verifying the watermark data comprises: extracting the watermark data from the watermarked content; comparing at least some of the extracted watermark data to a plurality of associations of watermarked content and corresponding content originators; and designating the watermark data as verified if the extracted watermark data corresponds to any of the plurality of associations of watermarked content and corresponding content originators [i.e. extract and compare] [Figure 4; col 7, lines 14-23; and col 12, lines 1-30].

25. As per claim 15, Levy discloses decrypting the extracted watermark data, and wherein comparing at least some of the extracted watermark data to a plurality of associations of watermarked content and corresponding content originators comprises comparing at least some of the decrypted watermark data to the plurality of associations of watermarked content and

corresponding content originators [Figure 2; col 4, lines 46-col 5, lines 14; and col 12, lines 55-67].

26.   Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lamkin et al. [US Patent No 6,975,220], in view of Levy et al. [US Patent No 7,224,819] and further in view of Zuidema [US Patent Application No 2006/0031297].

27.   As per claim 11, Lamkin and Levy do not specifically disclose wherein the at least one message comprises a Multimedia Messaging Service (MMS) message, and wherein detecting the detection data at a message routing entity comprises detecting the detection data at an Multimedia Messaging Service Center (MMSC). Zuidema discloses wherein the at least one message comprises a Multimedia Messaging Service (MMS) message, and wherein detecting the detection data at a message routing entity comprises detecting the detection data at an Multimedia Messaging Service Center (MMSC) [120, Figure 4; and paragraphs 0004, 0022, 0025 and 0026]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lamkin, Levy and Zuidema because the teaching of Zuidema on MMSC would enable to restrict or otherwise control the forwarding of multimedia content [Zuidema, paragraph 0009].

28.   Claims 17-23, 25-32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Lamkin et al. [US Patent No 6,975,220], and in view of Zuidema [US Patent Application

No 2006/0031297].

29.   As per claim 17, Lamkin does not specifically disclose wherein receiving at least one

message and associated content comprises receiving, as an intermediary, a message originating

from a first user targeted for at least one other user. Zuidema discloses wherein receiving at

least one message and associated content comprises receiving, as an intermediary, a message

originating from a first user targeted for at least one other user [101, 141, Figure 1; and

paragraphs 0003 and 0005]. It would have been obvious to a person skill in the art at the time

the invention was made to combine the teaching of Lamkin and Zuidema because the teaching

of Zuidema enable to restrict or otherwise control the forwarding of multimedia content [

Zuidema, paragraph 0009].

30.   As per claim 18, Zuidema discloses wherein receiving at least one message and

associated content comprises receiving, as an addressee, the message and associated content

from the originator of the content, and further comprising returning registered, watermarked

content to the originator of the content [paragraphs 0006 and 0031-0033].

31.   As per claim 19, Zuidema discloses wherein: receiving at least one message and

associated content comprises receiving the message and associated content from the originator

of the content at a web server via a web browsing session; associating watermark data with the

content comprises associating the watermark data with the content at the web server; registering

the watermarked content comprises receiving and registering the watermarked content at a

message tracking system; and monitoring for subsequent transmission of the watermarked

content comprises monitoring for subsequent transmission of the watermarked content at the

message tracking system [Figures 3-5; and paragraphs 0022, 0025, 0035].

32.   As per claim 20, Zuidema discloses creating the content via user equipment of the

originator of the content [Figure 1; and paragraphs 0002 and 0003].

33.   As per claim 21, Zuidema discloses uploading the content to user equipment of the

originator of the content [paragraph 0028].

34.   As per claim 22, Zuidema discloses wherein the message and associated content are

received by any of a Multimedia Messaging Service (MMS) message, Enhanced Messaging

Service (EMS) message, Short Message Service (SMS), Smart Message, or electronic mail (e-

mail) message [paragraphs 0002 and 0008].

35.   As per claim 23, it is rejected for similar reasons as stated above in claim 1. Furthermore,

Lamkin does not specifically disclose receiving MMS messages communicated over the

network at a Multimedia Message Service Center (MMSC). Zuidema discloses receiving MMS

messages communicated over the network at a Multimedia Message Service Center (MMSC) [

120, Figure 4; and paragraphs 0004, 0022, 0025 and 0026]. It would have been obvious to a

person skill in the art at the time the invention was made to combine the teaching of Lamkin

and Zuidema because the teaching of Zuidema enable to restrict or otherwise control the

forwarding of multimedia content [Zuidema, paragraph 0009].

36. As per claims 25 and 26, they are rejected for similar reasons as stated above in claims 1

and 23.

37. As per claim 27, Zuidema discloses wherein the watermarking module is further

configured to associated detection data with the content [410, Figure 4; and paragraphs 0022,

0025, and 0031].

38. As per claim 28, Zuidema discloses wherein the at least one MMSC comprises detection

module to identify content having the detection data, and to forward messages having the

detection data from the message source device to the message tracking system [410, Figure 4;

and paragraphs 0031-0033].

39. As per claim 29, Zuidema discloses wherein the message tracking system is configured to

forward the messages and associated content to the message center upon completion of

processing by the message tracking system, and wherein the message center is configured to

deliver the messages and associated content to the one or more message destination devices [

i.e. store and forward] [Abstract; and paragraphs 0004, 0036 and 0045].

40.   As per claim 30, it is rejected for similar reasons as stated above in claims 4 and 5.

41.   As per claim 31, it is rejected for similar reasons as stated above in claims 2 and 3.

42.   As per claim 32, Lamkin discloses the server comprises one of a World Wide Web

(WWW) server or a Wireless Application Protocol (WAP) server [col 8, lines 23-28].

43.   As per claim 34, it is rejected for similar reasons as stated above in claim 23.

44.   A shortened statutory period for response to this action is set to expire **3 (three) months**

and 0 (zero) days from the mail date of this letter. Failure to respond within the period for

response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P

710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The

examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

Art Unit 2154